EXHIBIT 17

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
U.S. PATENT NUMBER 8,095,879

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., AND APPLE, INC.,	§	
Petitioners,	§	
vs.	§	CASE NO. IPR 2021-00144
NEONODE SMARTPHONE LLC,	§	
Patent Owner.	§	

EXPERT ORAL DEPOSITION

DR. CRAIG S. ROSENBERG

May 20, 2022

EXPERT ORAL DEPOSITION OF DR. CRAIG S. ROSENBERG, produced as a witness at the instance of the Petitioner and duly sworn, was taken in the above-styled and numbered cause on the 20th day of May, 2022, from 11:06 a.m. to 4:30 p.m., before Michelle Hartman, Certified Shorthand Reporter in and for the State of Texas and Registered Professional Reporter, reported by computerized stenotype machine via Zoom videoconference, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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ALSO PRESENT:

Mr. Philip Graves, NeoNode in-house counsel

systems are designed so that swipe has a distinct meaning from drag and drop, and that is where the similarities essentially begin and end.

In terms of if you're just looking at what that finger is doing, it is really cutting out so much more of what the user's intention is, the state of the system, what's shown on the display.

Q. Does Figure 2 provide any information about the state of the system?

MR. HENDIFAR: Objection: Form.

THE WITNESS: Like I said, when a person of skill in the art reads a patent, they are not looking at just one figure, they are looking at the entire specification. The figure is supportive of the words in the specification. So the specification talks about when the action of Figure 2 is used, what's shown before that action happens, what's shown after that action happens. So this is just one part of the description of the -- of the invention.

Q. (BY MS. MILLER) I'm going to restate my question, which I think is a pretty narrow question.

You would agree that the action of the user shown in Figure 2 is consistent with how a user would perform a drag gesture, correct?

MR. HENDIFAR: Objection: Form.

THE WITNESS: If you're just looking at what the finger is doing, and I believe I have testified to this earlier, so you're looking at that in isolation, finger down on a touch-sensitive area, finger sliding along a touch-sensitive area and finger up, I would agree that those finger motions are similar between swipe and drag and drop.

But it just can't be ignored that the patent owner, the applicant, if you will, during the course of the prosecution of this patent is -- you know, it may rise to the level of a prosecution bar or a prosecution disclaimer that they are saying this invention does not cover drag and drop. We are not talking about drag and drop here.

I think I pointed you to the figure on page 170 of the prosecution history. If you look at paragraphs 54 and 55 of my declaration, and 56 and 57 talk about how this invention is not talking about drag and drop, then for the last 15 minutes, your questions -- your questions seem to be directed to admissions of this is essentially drag and drop, but -- but I don't think that is proper given the intrinsic evidence.

Q. (BY MS. MILLER) So given your testimony

over the last 15 minutes, is it fair to say that it is important to understand how the system operates in order to determine whether the gesture in Figure 2 is a swipe or a drag?

MR. HENDIFAR: Objection: Form.

THE WITNESS: In general, yes. In general, I do feel that the difference -- because there can be similarities in terms of if you're just looking at what the finger is doing, you do need to look at the behavior of the system. In the same way in Ren, the slide touch and the slide off, you need to look at, well, what's happening in this system as -- because there are similarities. So -- so, yes, I would agree with that.

Q. (BY MS. MILLER) Does Figure 2 provide any information about the speed of the finger as it's moving in direction B?

A. I am just looking through some other places in the patent where speed is mentioned and a few other places. And your question again, please?

Q. Does Figure 2 provide any information about the speed of the finger as it moves in direction B?

A. Figure 2 does not talk about the speed of the finger, but there is -- there are some

function 21 in the menu area and moves their finger to the display area to activate the function, correct?

A. Are you reading from a specific place in the patent so I can follow along?

Q. I was not, but I was using the language that's at column four, lines seven through 11, which uses the word "movement."

A. Column four, lines seven through 11?

Q. Correct.

A. Yeah, a movement is a superset. You know, and anything can be a movement. In the prosecution history, the patentees have -- if you look at paragraph 51 of my report, the pending claims originally cited moving and that got changed to gliding away, which in the prosecution history is tied to -- synonymously with swiping.

So movement is -- is -- you know, walking, jogging or running are all forms of movement, but gliding is a subset, if you will, a subset of a certain type of movement. So I think it is important to be precise and specific when you're talking about what's required by this patent and it would be a gliding away.

Q. But the patent describes the function

as activated in response to movement of the object 4, correct? "Movement" is the word used in the patent?

MR. HENDIFAR: Objection: Form.

THE WITNESS: In this specification -- and did you -- you were pointing me to -- was it column two or four?

Q. (BY MS. MILLER) Four.

A. Column four, yes, I see it, around line nine. My understanding in -- in patents is that the specification, it is the claims that are controlling. It is the -- the invention is embodied in the claim itself and the specification may be a little more general. Is a swipe a form of movement? Yes, it is. Are all movements swipes? No.

The movement is a superset. So I don't think that column four, lines roughly seven through 12 are incorrect. They are just not as specific as what's claimed in this patent in claim one.

And it is the patentee -- if you go back, I think it was 50 -- I'm sorry. Is it 51? Yeah. In 51 in my declaration, I talk about this and how originally the word "moving" was in the claim, moving in a direction from a starting point, you know, dot dot dot, to a display area; and according

to the prosecution history, that became more specific after the examiner watched a video from NeoNode and the -- and the explanations that ensued from that to become more specific.

So, again, I don't think "movement" is necessarily wrong because it is a superset that represents many kinds of movements, but it is not as specific as what is claimed in this patent.

Q. You would agree that the specification uses the word "movement," correct, to describe the action to activate the functions 21, 22, and 23?

A. I am not going to disagree that the word -- and let me get the form of the word exact -- that the word "movement" -- the word "movement" is in the patent. I just think all of my previous explanations about how movement is a superset and the back and forth between the Patent Office and the patentee are applicable here, but of course, I'm not going to disagree that that word "movement" is present in the specification.

Q. And you would agree that the specification does not use the word "glide" or "gliding" to describe the gesture to activate functions 21, 22 and 23, correct?

A. To answer your, you know, very specific

question, gliding is just in the claims.

Q. Is there anything in Figure 2 that informs the reader whether that is a glide versus a swipe or a drag?

MR. HENDIFAR: Objection: Form.

THE WITNESS: A glide versus a swipe versus a drag? Yeah, I think we spoke about this a little before the break and that I don't believe that a person skilled in the art would just look at Figure 2 to understand what's taught in the patent. They are not looking at Figure 2 in isolation. So I am not sure where to go with your question.

Is your question if someone only had Figure 2 and nothing else could they determine? Was that -- was that your question? I'm not --

Q. (BY MS. MILLER) Yes.

A. If you could ask it again, I really will try to be responsive to it.

Q. Is there anything in Figure 2 that informs the reader whether this is a glide versus a swipe versus a drag?

MR. HENDIFAR: Objection: Form.

THE WITNESS: Because the action of the thumb or the stylus is similar in terms of being in the air, down on a dis -- down on the display,

moving along the display, and potentially lifting up, although Figure 2 is not showing that part of it, those parts would be similar; but as we spoke pretty extensively prior to the break, that's where the similarities end, and swipe gestures are different gestures than drag gestures.

Q. (BY MS. MILLER) So to reset, in order to activate function 21, for example, the user touches their finger down on the representation of the function 21 and glides their finger into the display area, correct?

A. That is correct.

Q. If the user touches down on function -- representation of function 21 and glides their finger to the right along that black strip towards the file folder, would that activate function 21?

MR. HENDIFAR: Objection: Form and scope.

THE WITNESS: Well, I have not analyzed that specifically. I don't think that was an issue that the Petitioners or Dr. Bederson raised, but given my read of the patent, I suspect that it would not, as I suspect that you need to move into the display area 3 in order to activate the function, given the description in the specification.

STATE OF TEXAS

COUNTY OF HARRIS

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF

DR. CRAIG ROSENBERG

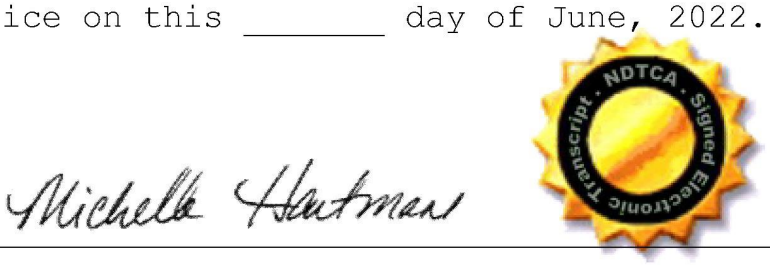
May 20, 202

I, Michelle Hartman, the undersigned Certified Shorthand Reporter in and for the State of Texas and Registered Professional Reporter, certify that the facts stated in the foregoing pages are true and correct.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

That the deposition transcript was duly submitted on _____ to the witness or to the attorney for the witness for examination, signature, and returned to me by _____.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this _____ day of June, 2022.



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Expiration: 12/31/23